

State Reimbursement for Aggravated Murder Case Costs

State reimbursement of aggravated murder case costs is available to counties at the discretion of the legislature, pursuant to [RCW 43.330.190](#). Counties wishing to request reimbursement must send completed Extraordinary Criminal Justice Costs petitions to the Washington State Office of Public Defense (OPD) by **December 4, 2023**. Supplemental petition information for November and December expenses must be submitted to OPD by **January 5, 2024**. OPD will process the petitions in consultation with the Washington Association of Prosecuting Attorneys and the Washington Association of Sheriffs and Police Chiefs, and will submit to the legislature a prioritized list of petitions that are recommended for funding. Copies of these forms can be found at <https://opd.wa.gov/cities-counties-courts/extraordinary-criminal-justice-costs>. For additional information contact Gideon Newmark at gideon.newmark@opd.wa.gov, (360) 586-3164, ext. 105.

RCW 43.330.190 Reimbursement of extraordinary criminal justice costs. Counties may submit a petition for relief to the office of public defense for reimbursement of extraordinary criminal justice costs. Extraordinary criminal justice costs are defined as those associated with investigation, prosecution, indigent defense, jury impanelment, expert witnesses, interpreters, incarceration, and other adjudication costs of aggravated murder cases.

(1) The office of public defense, in consultation with the Washington association of prosecuting attorneys and the Washington association of sheriffs and police chiefs, shall develop procedures for processing the petitions, for auditing the veracity of the petitions, and for prioritizing the petitions. Prioritization of the petitions shall be based on, but not limited to, such factors as disproportionate fiscal impact relative to the county budget, efficient use of resources, and whether the costs are extraordinary and could not be reasonably accommodated and anticipated in the normal budget process.

(2) Before January 1st of each year, the office of public defense, in consultation with the Washington association of prosecuting attorneys and the Washington association of sheriffs and police chiefs, shall develop and submit to the appropriate fiscal committees of the senate and house of representatives a prioritized list of submitted petitions that are recommended for funding by the legislature. [1999 c 303 § 1.]

Instructions for Completing a Petition

Preparing the Petition: Each petition item must be completed. Please submit all documents, aside from the data sheet, in .pdf format using OPD's secure file transfer portal. The data sheet should be submitted in Excel format. Contact gideon.newmark@opd.wa.gov for login information for the file transfer portal. Please submit the .pdf as a single package rather than multiple files and process the

.pdf with optical character recognition (OCR) so that it is searchable. The data sheet should be submitted as a separate Excel file.

Petition Format: Please electronically bookmark your .pdf file with the tab numbers provided in the sample table of contents. Please include the sample table of contents, edited to reflect the actual contents of your petition. If there are no documents under a tab, please skip it, but keep the tab numbering from the sample table of contents.

Petition Items 2: List the county's total criminal justice budget for 2023 and the county's total current expense budget for 2023.

Petition Item 3: If defense counsel was appointed to represent indigent aggravated murder defendants, state whether county public defenders, contract counsel under a preexisting contract, or private counsel under a new contract were selected. If private counsel was selected under a new contract or contracts, describe how counsel was selected.

Petition Item 4: Describe whether defense counsel was paid on an hourly basis, a flat fee basis, or by another method, and indicate the rate paid.

Petition Item 5: Explain why the claimed costs were extraordinary and could not be reasonably anticipated and accommodated within the county budget. For example, there may have been no history in the county of aggravated murder proceedings, unusually long court proceedings, unusually complicated investigations, or high travel costs. Attach additional pages if necessary.

Petition Item 6: Describe the methods used to efficiently manage aggravated murder case resources, such as use of staff investigators or interpreters, appointment of Supreme Court Capital Counsel Panel defense attorneys, or other methods. Attach additional pages if necessary.

Petition Item 7: List all 2023 costs on the appropriate declaration forms A through Q. Provide supporting documentation for each expense as instructed in each form. Use a separate set of forms for each aggravated murder case. If a vendor submitted multiple invoices, include a Vendor Calculation Worksheet directly after the declaration form. The Vendor Calculation Worksheet should list each individual charge by the vendor and show that vendor's total charges.

The county cannot be reimbursed for expenses not set forth on the declaration forms and documented with the required supporting materials. Documentation is

sufficient to support an expense if it shows that the county paid the listed amount. Examples of proper documentation include invoices from a service provider or court orders directing payment of certain expenses. If such documentation is not available, please attach the best available documentation.

What expenses can be included in the 2023 petition? Include only expenses that will be paid from the County's 2023 budget. You may file a separate petition requesting reimbursement for prior years if necessary. Because this is an annualized process, multiple years cannot be aggregated into a single petition.

Documents to support other documents should not be included. For example, a paid invoice to an attorney is sufficient; the attorney's original time records that supported the invoice are not necessary. Likewise, an invoice for reimbursement from a service provider is sufficient; receipts supporting the reimbursement are not necessary.

Counties are responsible for redacting any information they determine to be exempt from disclosure, including but not limited to personal, legal, or health care information.

The expense categories of the declaration forms are further detailed below:

- **Prosecution Employee Costs:** List the amount spent for all prosecuting agency employee time.
- **Prosecution Investigation & Discovery Costs:** List all non-employee prosecution investigation and discovery costs, such as depositions, site visits, photographic services, travel, and copying.
- **Prosecution Expert Witness Costs:** List the costs for all non-county-employee prosecution expert witnesses.
- **Prosecution Other Costs:** List any other non-employee costs incurred by the prosecuting agency.
- **Sheriff/Police Employee Costs:** List the amount spent for law enforcement employee time investigating and adjudicating the case.
- **Sheriff/Police Non-Employee Costs:** List all non-employee law enforcement costs, such as non-employee crime scene technicians, travel, photocopying, and supplies necessary for crime scene investigations.
- **Public Defense Attorney Employee Costs:** List the amount spent for county public defense agency employee time, including any county public defenders or public defense administrators.
- **Public Defense Attorney Non-Employee Costs:** List the costs for all non-county-employee public defense attorneys.

- **Public Defense Investigation & Discovery Costs:** List all non-employee costs for all public defense investigation and discovery, such as depositions, site visits, photographic services, travel, and copying.
- **Public Defense Expert Witness Costs:** List the costs for all non-county-employee defense expert witnesses.
- **Public Defense Other Costs:** List any other non-employee costs incurred for public defense.
- **Jail Employee Costs:** If the defendant was incarcerated, list the amount spent for all jail employee time to incarcerate the defendant.
- **Jail Non-Employee Costs:** If the defendant was incarcerated, list the non-employee costs to incarcerate the defendant, excluding health care costs.
- **Jail Health Care Costs:** If the defendant was incarcerated, list the non-employee costs of any jail health care. Redact jail health care costs as necessary to protect patient privacy.
- **Jury Impanelment Costs:** If a jury was impaneled, list all jury costs.
- **Interpreter Costs:** List any interpreter costs.
- **Other Adjudication Costs:** List any other adjudication costs. Attach additional pages if necessary

Petition Item 8: Enter all totals from Forms A through Q on the data table. In the “Death Notice Filed” column, state “yes” if the prosecuting attorney filed a notice of intent to seek the death penalty at any point in the case, otherwise state “no.” Provide the data table to OPD in Excel format.

Petition Item 9: Note that the county agrees to promptly notify OPD if the county is applying for reimbursement of any portion of the included costs from any other source, such as federal grant funding.